Supreme Court, U.S.
FILED

961567 JAN 30 1997

OFFICE OF THE CLERK

No.

In The Supreme Court Of The United States

OCTOBER TERM 1996

PIERRE T. JACKSON, *Petitioner,*

v.

STATE OF LOUISIANA, *Respondent.*

Petition for a Writ of Certiorari To The Louisiana Supreme Court

PETITION FOR WRIT OF CERTIORARI

Bobby L. Culpepper
BOBBY L. CULPEPPER & ASSOCIATES
A PROFESSIONAL LAW CORPORATION
525 East Court Avenue
Jonesboro, Louisiana 71251
(318) 259-4184

Counsel for Petitioner

LANTAGNE LEGAL PRINTING
801 East Main Street Suite 100 Richmond, Virginia 23219 (800) 847-0477

49 pp

QUESTIONS PRESENTED FOR REVIEW

1. WHETHER OR NOT JACKSON INVOKED HIS FIFTH AND FOURTEENTH AMENDMENT RIGHT TO HAVE COUNSEL PRESENT DURING CUSTODIAL INTERROGATION BY ASKING LAW ENFORCEMENT OFFICIALS 'HOW AM I GOING TO GET A LAWYER WHEN I'm SITTING UP HERE TALKING TO Y'ALL?"

2. WHETHER OR NOT LAW ENFORCEMENT OFFICIALS WERE REQUIRED BY DUE PROCESS CONSIDERATIONS TO MAKE FURTHER INQUIRY IN RESPONSE TO JACKSON'S QUESTION AS OPPOSED TO MERELY RESTATING **MIRANDA** WARNINGS?

3. WHETHER THE DENIAL OF JACKSON'S MOTION TO SUPPRESS HIS CONFESSION CONSTITUTED A DENIAL OF DUE PROCESS BECAUSE SAID CONFESSION WAS INDUCED BY LAW ENFORCEMENT PROMISES TO MOVE JACKSON OUT OF SOLITARY CONFINEMENT.

TABLE OF CONTENTS

PAGE NO.

Questions Presented for Review.... i

Table of Contents ii

Table of Cited Authorities iv

Opinions Below 1

Statement of Jurisdiction 2

Constitutional Provisions 2

Statement of the Case 3

Argument 9

I. Invocation of Right to Counsel 9

II. Voluntariness of Confession 14

Conclusion 17

Certificate of Service 19

Appendix A-E:

A. Trial Court Ruling of Motion to Suppress 20

TABLE OF CONTENTS
CONTINUED

B. Judgment of Second Circuit Court of Appeal... 21

C. Denial of Rehearing by Second Circuit Court of Appeal 37

D. Denial of Writ of Certiorari and/or Review by the Supreme Court of the State of Louisiana..... 38

E. Claiborne Parish Sheriffs' Department Advice of Rights... 38-A

F. Confession of Pierre T. Jackson 39

TABLE OF CITED AUTHORITIES

PAGE NO.

Arizona vs. Fulminante
499 U.S. 279, 113 L. Ed 2d
302, 111 S. Ct. 1246 (1991) 17

Blackburn vs. Alabama
361 U.S. 199, 4 L. Ed 2d 242,
80 S. Ct. 274 (1960).....15

Bram vs. United States
168 U.S. 532, 42 L. Ed 568,
18 S. Ct. 183 (1897).....14,15

Carnley vs. Cochran
369 U.S. 506, 8 L. Ed 2d 70,
82 S. Ct. 884 (1962).....11

Davis vs. United States
512 U.S. _____, 129 L. Ed 2d
362, 114 S. Ct. 2350 (1994).....12

Escobedo vs. Illinois
378 U.S. 478, 12 L. Ed 2d 977,
84 S. Ct. 1758 (1964).....10

Haynes vs. Washington
373 U.S. 503, 10 L. Ed 2d 513,
83 S. Ct. 1336 (1963).....16

Malloy vs. Hogan
378 U.S. 1, 12 L. Ed 2d 653,
84 S. Ct. 1489 (1964).....15

TABLE OF CITED AUTHORITIES
CONTINUED

Miranda vs. Arizona
384 U.S. 436, 16 L. Ed 2d 694,
86 S. Ct. 1602 (1966).....9,10,11
12,13

Reck vs. Pate
367 U.S. 433, 6 L. Ed 2d 948,
81 S. Ct. 1541 (1961).....15

Smith vs. Illinois
469 U.S. 91, 83 L. Ed 2d 488,
105 S. Ct. 490 (1984).....11,12

NO.

****

IN THE
SUPREME COURT OF THE UNITED STATES
1996-1997 TERM

****

STATE OF LOUISIANA

VERSUS

PIERRE T. JACKSON,
PETITIONER

****

PETITION FOR A WRIT OF CERTIORARI
TO THE LOUISIANA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI TO THE LOUISIANA SUPREME COURT

OPINIONS BELOW

(1) #33,120 for the Third Judicial District Court, Parish of Union, State of Louisiana.

(2) **State of Louisiana vs. Pierre T. Jackson,** 672 So. 2d 215, 27855-KA (La. App. 2d Cir. 4/3/96).

(3) **State of Louisiana vs. Pierre T. Jackson,** 681 So. 2d 1258, 96-1386 (La. 11/1/96).

STATEMENT OF JURISDICTION

The Judgment of the Trial Court was entered on March 3, 1995. The Second Circuit Court of Appeal affirmed on April 3, 1996 and denied rehearing on May 2, 1996. The Supreme Court for the State of Louisiana denied writs on November 1, 1996. This Honorable Court's jurisdiction is invoked under 28 USC § 1254(1).

CONSTITUTIONAL PROVISIONS

Fifth Amendment to the United States Constitution:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Fourteenth Amendment to the United States Constitution:

> Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On January 25, 1994, **PIERRE T. JACKSON** was arrested pursuant to a warrant signed in April, 1993 for the burglary of Mrs. Ladelle Buggs' home. The prior day, Mrs. Buggs had been reported missing by relatives. When Claiborne Parish deputies investigated her home, they found evidence of foul play and Mr. Jackson immediately became a suspect because of the outstanding burglary charge.

At approximately 9:00 o'clock P.M. on January 25, 1994, Mr. Jackson gave a statement to authorities regarding the 1993 burglary. He was placed in an empty cell block and, on the following day, gave additional statements to law enforcement officials at 7:30 A.M., 2:28 P.M. and 5:13 P.M. respectively. Based upon the above statements, the body of Ladelle Buggs was recovered. Mr. Jackson was indicted for first degree murder in violation of **Louisiana Revised Statute 14:30** on February 16, 1994.

Following the denial of his motion to suppress on March 3, 1995, Mr. Jackson pled guilty as charged pursuant to a Crosby plea, avoiding the death penalty and reserving the right to appeal the denial of the motion to suppress. On March 16, 1995, he was sentenced to life imprisonment. Following his appeal, the Court of Appeal affirmed the

Trial Court and denied his application for rehearing. The Supreme Court for the State of Louisiana denied writs.

At issue in this petition is the admissibility of the confession obtained from Mr. Jackson on January 26, 1994 at 5:13 P.M. when he confessed to the killing of Mrs. Buggs. The pertinent part of that confession is contained on the first page and reads as follows:

> "CT: Now, what you asked me, was I going to put you into another room.
>
> PT: Yeah.
>
> CT: You're in a cell block by yourself right now.
>
> PJ: Yeah.
>
> CT: And you said that you want to talk to me tonight, so I'll put you in a room where there's some more people. Right?
>
> PJ: Yeah.
>
> CT: When we get through here, you're not going back in that room that you were in. I'm going to put you in another cell block to

where there some other people, okay?

PJ: That's all I want to know.

CT: Okay. Now then, being it's been some time lapse since I've talked to you a while ago. I'm going to ...

PJ: You ain't got to re-read that.

CT: No, I have to. You'll tell me it's not necessary on your part, but I have to re-read this to you. It's the same thing, but let me re-read it to you, okay. I have to do that.
Pierre T. Jackson, Route 2, box 101A, Bernice, Louisiana. Your age is 29. Your date of birth is February the 13, 1964. You completed the 10th grade. I want to talk to you about the burglary of Ladelle Buggs' house and the death of Ladelle Buggs. Before I ask you an questions, I want you to understand yourh rights. You have the right to remain silent. We inform you that anything you say can be used against you in court. You have the right to talk to a lawyer for advice before answering any questions and you may have a lawyer during the questioning. If you want a lawyer during the questioning, but can not afford a lawyer, a lawyer will be provided to you at no cost prior to the questioning. If you decide to answer questions now without a

lawyer present, you have the right to stop answering in order to get advice of a lawyer or for any other reason that you may have.

PJ: Now this part about a lawyer. How am I going to get a lawyer when I'm sitting up here talking to y'all?

CT: Okay, let me write this time down and I'll tell you. Okay, let me finish this then I'll answer your question. Do you understand these rights?

PJ: Uh-huh.

CT: Okay. Are you willing to answer questions now without a lawyer present?

PJ: Uh-huh.

CT: Okay. Have any threats, promises or pressure of any kind been implied to induce you to give up these rights?

PJ: Uh-uh.

CT: Okay. I would like for you, instead of shaking your head, say yes or no.

PJ: Yeah. Yes.

CT: Now, like I told you a while ago, we have our tape recorder and camera on, okay. Now, to answer your question about the lawyer is, that if you can not afford a lawyer, the

courts will appoint you a lawyer. It will be free of charge. It won't cost you any money and we will see that that's done if that's what you need. If you don't have the money to hire a lawyer, the courts will appoint you a lawyer.

PJ: Okay.

CT: This is the rights form and if you'd like to review it and then sign your full name there ... Okay, you have read that, I mean, you have signed that and you do understand what I've read to you? Okay, I'd like you to say yes or no.

PJ: Yes. Yes, sir.

CT: Yes, sir. Okay, fine.

CB: One thing I want to stipulate there. The last part he read to you right here. When it says have any threats or promises been made to you or has pressure of any kind been implied induce you to answer questions or to give up any of your rights. You shook your head, nodded your head a minute ago.

PJ: I mean no.

CB: Meaning, I took, no, but when he asked you, I think you said yes, yes. Now has any pressure of any kind been induced?

PJ: No. No.

CB: Okay.

This issue has been litigated at all State Court levels from the motion to suppress hearing, through the appeal to the Second Circuit Court of Appeal and finally through a writ application to the Louisiana Supreme Court. The sole assignment of error on appeal has been the denial of Mr. Jackson's motion to suppress.

A R G U M E N T

I. **INVOCATION OF RIGHT TO COUNSEL:**

The prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self incrimination. **Miranda vs. Arizona,** 384 U.S. 436, 16 L. Ed 2d 694, 86 S. Ct. 1602 (1966). The

defendant may waive his rights provided such waiver is made voluntarily, knowingly and intelligently. Id. at 384 U.S. 444. **If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, there can be no questioning.** Id. (Emphasis added).

If the interrogation continues without the presence of an attorney and a statement is taken, a heavy burden rests on the government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel. **Escobedo vs. Illinois,** 378 U.S. 478, 12 L. Ed 2d 977, 84 S. Ct. 1758 (1964). A valid waiver will not be presumed simply from the silence of the accused after warnings are given or simply from the fact that a

confession was in fact eventually obtained. **Miranda vs. Arizona,** 384 U.S. 436 at 475. As stated by this Honorable Court in **Carnley vs. Cochran,** 369 U.S. 506, 8 L. Ed 2d 70, 82 S. Ct. 884 (1962):

> "Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence which show, that an accused was offered counsel but intelligently and understandingly rejected the offer. Anything less is not waiver."

In the case of **Smith vs. Illinois,** 469 U.S 91, 83 L. Ed 2d 488, 105 S. Ct. 490 (1984), this Court reversed the Illinois Supreme court and held that an accused's post request responses to further interrogation may not be used to cast doubt on the clarity of his initial request for counsel. The Court noted that an accused's asserted request for counsel may be ambiguous or equivocal and courts have developed conflicting standards for determining the

consequences of such ambiguities but did not resolve the conflict in that case. **Id.** at 469 U.S. 95 and 96.

In **Davis vs. United States,** 512 U.S. _____, 129 L. Ed 2d 362, 114 S. Ct. 2350 (1994), the court cited jurisprudence that invocation of the **Miranda** right to counsel "requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney." The holding of **Davis** was that, after a knowing and voluntary waiver of the **Miranda** rights, law enforcement officers may continue questioning until and unless the suspect clearly requests an attorney. In that case, however, after the accused made the remark "maybe I should talk to a lawyer", the interviewing agents asked him if he wanted a lawyer and he indicated that he did not. The concurring opinion of

Justice Souter expressed concern over a "general rule that interrogators have no legal obligation to discover what a custodial subject meant by an ambiguous statement that could reasonably be understood to express a desire to consult a lawyer.

In the case sub judice, after Mr. Jackson was given his **Miranda** warnings, he asked the following question:

> "Now this part about a lawyer. How am I going to get a lawyer when I'm sitting up here talking to y'all?"

Without any explanation, the officer asks him if he understands the **Miranda** rights and is willing to answer questions without an attorney. After Mr. Jackson indicates that he is, the officer merely repeats the **Miranda** warnings about an attorney without any clarification. Based on this exchange, it is clear that Mr. Jackson invoked his

right to counsel and, at no time, knowingly and intelligently waived that right.

II. **VOLUNTARINESS OF CONFESSION:**

In criminal trials, in the courts of the United States, wherever a question arises whether a confession is incompetent because not voluntary, the issue is controlled by that portion of the Fifth Amendment to the Constitution of the United States commanding that no person "shall be compelled in any criminal case to be a witness against himself." **Bram vs. United States,** 168 U.S. 532, 42 L. Ed 568, 18 S. Ct. 183 (1897). Under this test, the constitutional inquiry is not whether the conduct of state officials in obtaining the confession is shocking, but whether the confession was "free and voluntary; that is, it must not be extracted by any sort of threats or violence, nor obtained by any direct or

implied promises, however, slight, nor by the exertion of any improper influence..." **Id.** at 542-543, 42 L. Ed at 573. In other words, a person must not have been compelled to incriminate himself. **Malloy vs. Hogan,** 378 U.S. 1, 12 L. Ed 2d 653, 84 S. Ct. 1489 (1964).

The blood of an accused is not the only hallmark of an unconstitutional inquisition. **Blackburn vs. Alabama,** 361 U.S. 199, 4 L. Ed 2d 242, 80 S. Ct. 274 (1960). The question is whether a defendant's will was overborne at the time he confessed and, if so, the confession cannot be deemed "the product of a rational intellect and a free will." (Citations omitted) **Reck vs. Pate,** 367 U.S. 433, 6 L. Ed 2d 948, 81 S. Ct. 1541 (1961).

This Court has held inadmissible a confession secured by the refusal, under certain circumstances, to allow a suspect to

call his wife until he confessed. **Haynes vs. Washington,** 373 U.S. 503, 10 L. Ed 2d 513, 83 S. Ct. 1336 (1963).

In our case, the promises made to the defendant in exchange for his confession are clearly reflected in the confession itself. Prior to making any statement, this exchange took place between Mr. Jackson and law enforcement officials:

"CT: Now, what you asked me, was I going to put you into another room.

PT: Yeah.

CT: You're in a cell block by yourself right now.

PJ: Yeah.

CT: And you said that you want to talk to me tonight, so I'll put you in a room where there's some more people. Right?

PJ: Yeah.

CT: When we get through here, you're not going back in that room that you were in. I'm going to put you in another cell block to

where there some other people, okay?

PJ: That's all I want to know.

The promise could not be more clear. Mr. Jackson gave this statement so that he would be moved from a solitary cell block to the general prison population.

CONCLUSION

A confession is like no other evidence. Indeed, "the defendant's own confession is probably the most probative and damaging evidence that can be admitted against him. Certainly, confessions have profound impact on the jury so much so that we may justifiably doubt its ability to put them out of mind even if told to do so. **Arizona vs. Fulminante**, 499 U.S. 279, 113 L. Ed 2d 302, 111 S. Ct. 1246 (1991). This confession was obtained in violation of Mr. Jackson's due process rights and its

admission should be reversed by this Honorable Court.

RESPECTFULLY SUBMITTED,

BOBBY L. CULPEPPER & ASSOCIATES
A PROFESSIONAL LAW CORPORATION
525 EAST COURT AVENUE
JONESBORO, LOUISIANA 71251
318/259-4184

BY: _____
BOBBY L. CULPEPPER
FED. BAR ROLL #925
ATTORNEY FOR PETITIONER,
PIERRE T. JACKSON

CERTIFICATE

I hereby certify that a copy of the above and foregoing Petition for Writ of Certiorari has been mailed this date in the United States mail, postage prepaid, to Honorable A. Shawn Alford, Assistant District Attorney, 100 East Bayou,

Farmerville, Louisiana 71241, counsel for State of Louisiana.

Jonesboro, Louisiana this the 29th day of January, 1997.

BOBBY L. CULPEPPER

APPENDIX A

THE COURT: It's not like he was denied food or other physical wish or desire.

MS. ALFORD: Yes, sir. Exactly.

THE COURT: The court has heard the testimony in connection with the preliminary examination. Also the testimony here today. And as counsel says I take the whole set of circumstances and events in the entirety and I have not foun from any of the testimony that the defendant was denied any rights or privileges. I don't know that there is a right to be in a cell with other people. Some prisons have isolation cells. Some prisons are built with single prisoner cells, units. I don't believe that the evidence shows that the defendant was induced or persuaded by any promises to make the statements. I think that the officers have probable cause within which-- for which to arrest the defensdant in the first place. And they held him on that charge of illegal possession of stolen things and also pending an investigation of the disappearance of Mrs. Buggs. Eventually he voluntarily showed them where Mrs. Buggs' body was and then after that he made the confession that he's the one who killed her. And there's no evidence in my opinion of any threats, coercion or on the other hand any promises or inducements that would make the defendant confess or cause him to confess. Therefore the Motion to Suppress is overruled.

PROCEEDINGS ENDED

APPENDIX B

MARVIN, C. J.

After pleading guilty to first degree murder with a **Crosby** reservation and being given the mandatory sentence, Pierre T. Jackson appeals the trial court's denial of his motion to suppress his confession to police. *State vs. Crosby*, 338 So. 2d 584 (La. 1976).

We find no merit to his six argued assignments and affirm.

FACTS

The victim of the January, 1994 murder to which jackson confessed was 86-year-old Mrs. Ladelle Buggs. Jackson had apparently burglarized her rural Claiborne Parish home earlier in 1993. an arrest warrant charging Jackson with that burglary was signed in April, 1993. Attempts to execute the warrant during that year proved unsuccessul.

On Monday morning, January 24, 1994, when relatives alerted authorities they could not locate Mrs. Buggs, her home was investigated by Claiborne Parish deputies. Deputies found blood smears on the storm door, several rooms in disarray, blood in Mrs. Buggs' car, and mud on the rear tires, wheel covers and rear quarter panel. Her microwave was found in the trunk of her car and her walking cane, stained with blood, was in the carport. Michael Davis, a neighbor, reported seeing a car that resembled Mrs. Buggs' car late Sunday night on a rural road north of her residence.

Because of the condition of her home and the unexplained absence of Mrs. Buggs, Claiborne Parish authorities immediately resumed their efforts to locate Jackson on that day and execute the 1993 burglary arrest warrant. Acting the next night on a tip from a confidential informant, Deputy James

Spillers stopped a black Chevrolet truck in which he had been told Jackson would be riding. Spillers announced he had a warrant for the arrest of Jackson, charging him with the burglary. Jackson, a passenger in the truck, first said his name was Randy Bailey, but soon admitted his identity and was arrested and taken into custody about 9:00 p.m. on January 25, 1994.

Jackson's first assignment of error contends Deputy Spillers did not have probable cause for the "traffic stop." The 1993 arrest warrant for jackson authorized and indeed required the deputy to stop and arrest Jackson wherever he found him in the deputy's territorial jurisdiction (Claiborne Parish), whether Jackson was on foot or being transported by any means. *La. C.Cr.P. arts. 204, 205, 213, 216.* This assignment has no merit.

Once Jackson was in custody, Deputy Chuck Talley read Jackson his *Miranda* rights and presented him with an advice of rights form that also stated that he wanted to question Jackson about the 1993 burglary of Mrs. Buggs' home. Jackson signed the advice of rights form, saying to Deputy Spillers that he understood the *Miranda* rights or warnings. This initial interview was limited to questions regarding the April, 1993 burglary.

The next morning, January 26, 1994, at approximately 7:30, Jackson informed Talley that he wanted to talk him about Mrs. Buggs. Talley again advised Jackson of his *Miranda* rights and presented him with a second advice of rights form which Jackson signed, again saying he understood his rights. In addition to the required detailed *Miranda* warnings, the second form contains this written statement: "We want to question you

about where Ladelle Buggs is now and where you put her." During the ensuing conversation, Jackson volunteered to take the deputies to her body.

After directing Deputies Talley, Brown and Buford to the body in neighboring Union Parish, Jackson was returned to jail and the Union Parish Sheriff was notified. Some of these deputies assisted at the crime scene and with the disposition of the body. At 5:13 p.m. on that day, after having the *Miranda* warnings re-read to him and signing a third advice of rights form, Jackson confessed to burglarizing her home, kidnapping her in Claiborne Parish and to murdering Mrs. Buggs in Union Parish where her body was found. this third form stated that the deputies wanted to question Jackson about the burglary of Mrs. Buggs' home and her death.

Jackson told the deputies in detail what had occurred, his knocking on Mrs. Buggs' door and forcing himself inside once she opened the door. He admitted taking telephones, sheets, a microwave and jars of money. Jackson then forced Mrs. Buggs into the car, drove to a remote location and shot her in the head. Jackson discarded the stolen items, except the microwave, and returned the car to Mrs. Buggs' carport.

After his arrest on January 25, 1994, deputies placed Jackson alone in a cell block which contained a television, telephone and beds for 12 prisoners. Before he confessed to the murder on January 26, Jackson inquired as to why he was alone in the cell. When Sheriff's deputies informed him it was for his safety, Jackson stated he was not afraid, and wanted to be put in a cell block with the other prisoners. After reviewing with Jackson the names of the

prisoners in the cell block, Deputy Talley agreed to Jackson's request. the transcript of Jackson's confession contains the following exchange:

> "CT: Now, what you asked me, was I going to put you into another room.
>
> PT: Yeah.
>
> CT: You're in a cell block by yourself right now.
>
> PJ: Yeah.
>
> CT: And you said that you want to talk to me tonight, so I'll put you in a room where there's some more people. Right?
>
> PJ: Yeah.
>
> CT: When we get through here, you're not going back in that room that you were in. I'm going to put you in another cell block to where there some other people, okay?
>
> PJ: That's all I want to know.

The above quoted conversation gives rise to Jackson's assignment that his confession was induced by the "promise" to move Jackson and

was not free and voluntary. We shall discuss that assignment with the other related related assignments. After the above conversation about the cell-block, Talley then re-read the detailed *Miranda* rights to Jackson, followed by this exchange:

PJ: Now this part about a lawyer. How am I going to get a lawyer when I'm sitting up here talking to y'all?

CT: Okay, let me write this time down and I'll tell you. Okay, let me finish this then I'll answer your question. Do you understand these rights?

PJ: Uh-huh.

CT: Okay. Are you willing to answer questions now without a lawyer present?

PJ: Uh-huh.

CT: Okay. Have any threats, promises or pressure of any kind been implied to induce you to give up these rights?

PJ: Uh-uh.

CT: Now, like I told you a while ago, we have our tape recorder and camera on, okay. Now, to

> answer your question about the lawyer is, that if you can not afford a lawyer, the courts will appoint you a lawyer. It will be free of charge. It won't cost you any money and we will see that that's done if that's what you need. If you don't have the money to hire a lawyer, the courts will appoint you a lawyer.

The above dialogue is the basis for Jackson's assignment that the deputies ignored his request for a lawyer in violation of **Edwards vs. Arizona** (451 U.S. 477, 101 S. Ct. 1880, 68 L.Ed. 2d 378 (1981). Following the above exchange, Jackson again confessed to the crime.

Cnfessions

The State must affirmatively show that a confession was free and voluntary and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises. **La. R.S. 15:451; State vs. English,** 582 So. 2d 1358 (La. App. 2d Cir.

1991). The state must also establish that an accused was advised of his constitutional rights and that he understood and knowingly waived those rights. **Id.** Law enforcement officials are required to inform the suspect that he has the right to remain silent, that his statements may be used against him at trial, that he has a right to an attorney, and that if he cannot afford an attorney, one would be appoitned for him. **Miranda vs. Arizona,** 384 U.S. 436, 86 S. Ct. 1602, 16 L.Ed 2d 694 (1966); **State vs. Davis,** 92-1623 (La. 5/23/94), 637 So. 2d 1012.

Because the trial court has the opportunity to observe the witnesses, and weigh the credibility of their testimony, great weight is placed upon the court's ruling on a motion to suppress based on factual findings. **State vs. Jackson,** 26,138 (La. App. 2d Cir. 8/17/94), 641 So. 2d 1081.

Confinement in Isolation

According to Deputy Talley, the deputies were unaware whether family or friends of Mrs. Buggs were currently incarcerated and placed Jackson in a cell by himself to ensure his safety immediately after his arrest. The following morning, Jackson requested to be placed in the general population. Deputy Talley and **Jackson** reviewed the public display blackboard that contained the names of the prisoners and the cell block in which they were held and determined no one in the jail population posed a risk to him. Jackson requested to be placed in cell block 100 and Deputy Talley granted this request.

Defendant complained of being alone at the same time he indicated a willingness to talk to the officers concerning the location of Mrs. Buggs. Although Jackson's detailed confession followed the State's agreement to

move him to a cell with another prisoner, there is no evidence to indicate the confession was induced by the promise to move him.

> "CB: One thing I want to stipulate there. The last part he read to you right here. When it says have any threats or promises been made to you or has pressure of any kind been implied to induce you to answer questions or to give up any of your rights. You shook your head, nodded your head a minute ago.
>
> PJ: I mean no.
>
> CB: Meaning, I took no, but when he asked you, I think you said yes, yes. Now has any pressure of any kind been induced?
>
> PJ: No. No.

The conditions of Jackson's initial confinement appears more convenient than that of the general population in that Jackson would not have to share the telephone or television. The record is devoid of evidence that would indicate the initial confinement was intended, or

accomplished, to exert any type of psychological pressure on defendant. To the contrary, the record reveals defendant had regular contact with the deputies and trustees who extended him privileges such as allowing him to use an office phone and purchasing him cigarettes. In short, the record is devoid of evidence to support the assertion that authorities induced Jackson's confession by agreeing to his request to move him to another cell.

Request for an Attorney

When an accused invokes his right to have counsel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded without objection to further police-initiated custodial interrogation. **Edwards vs. Arizona, supra.** The court further held that an accused, having

expressed his desire to deal with the police only through counsel, may not be subjected to further interrogation by authorities until counsel has been made available to him. Under appropriate circumstances, however, this rule is relaxed when the accused himself initiates further communication, exchanges or conversations with the police. See **State vs. Arceneaux,** 425 So. 2d 740 (La. 1983).

However, a defendant must invoke his right to counsel. The courts will not presume defendant desired to deal with authorities only through his lawyer on the basis of equivocal statements. In **State vs. Griffin,** 568 So. 2d 198 (La. App. 2d Cir. 1990), the trial court offered to appoint an attorney to represent the defendant; however, the defendant stated he would prefer to retain his own counsel rather than be represented by court-appointed counsel. Subsequently,

defendant confessed to authorities after receiving *Miranda* warnings but before he retained counsel. On appeal, defenasdnt argued that once he placed the ocurt on notice of his desire to obtain counsel, all interrogations should have terminated until such time as he was able to retain counsel. The court rejected this argument and stated defendant's statement of his preference to retain his own counsel when offered indigent representation by the trial court did not amount to an expression of desire to "deal with police only through counsel" as was contemplated by *Edwards*.

Here, one day after his arrest, Jackson sent word through the jail truestt that he wanted to talk to Deputy Talley. When Deputy Talley went to Jackson's cell, Jackson asked to use the phone. After using the phone and returning to his cell, Jackson told Deputy talley he needed to talk to him about "where

Ladelle Buggs was." Jackson initiated the conversation with deputies about Mrs. Buggs. Prior to taking any statements, deputies fully advised Jackosn of his constitutional rights, including his right to counsel and his right to stop answering questions at any time at the time his confession was obtained. His question concerning the procedure of how counsel would be appointed should not be deemed an unequivocal expression of his desire or wish to deal with the deputies only through counsel.

This record reveals Jackson voluntarily and knowingly waived his right to counsel prior to each interview and did not unequivocally invoke his right to have counsel present during questioning.

CONCLUSION

We have reviewed the trial court's denial of Jackson's motion to suppress his

confessions. We find no merit in his assignments of error. The trial court's ruling and Jackson's conviction and sentence are **AFFIRMED**.

APPENDIX C

STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318)227-3700

TO: Bobby L. Culpepper, Esq.
Culpepper Associates
525 East Court Avenue
Jonesboro, LA 71251

Shreveport, Louisiana: May 2, 1996

Docket Number: 27855-KA

State of Louisiana
vs.
Jackson, Pierre T.

BEFORE JUDGES: Marvin, Hightower,
STEWART, J., Gaskins, Caraway

As counsel of record in the captioned case, you are hereby notified that the application for rehearing filed by Defendant/Appellant has this day been DENIED.

FOR THE COURT
Diana P. Heisler
Clerk of Court

cc: Hon. Robert W. Levy
A. Shawn Alford, Esq.

APPENDIX D

STATE OF LOUISIANA

vs. NO. 95-K - 1386

PIERRE T. JACKSON

IN RE: Jackson, Pierre T.; - Defendant(s); Applying for Writ of Certiorari and/or Review; Parish of Union, 3rd Judicial District Court Div. "A", Number 33,120; to the Court of Appeal, Second Circuit, Number 27855-KA

November 1, 1996

Denied.

BJJ
PFC
WFM
JCW
HTL
CDK
EJB

VICTORY, J not on panel.

Supreme Court of Louisiana
November 1, 1996

(SIGNED): _____
Clerk of Court
For the Court

APPENDIX E

CLAIBORNE PARISH SHERIFF'S DEPARTMENT
HOMER, LOUISIANA 71040

ADVICE OF RIGHTS

Remember that the statement of the suspect must be given freely and voluntarily in addition to strict compliance with Miranda warnings.

The same rights advice procedures should be followed in juvenile investigations. Despite the fact that the juvenile suspect may be charged in the juvenile court rather than as an adult, his privilege against self-incrimination still applies. Miranda warnings must be given.

YOUR RIGHTS:

Name of the Suspect *Pierre T. Jackson** ;
Address *Rt. 2 Box 101-A Bernice, La*

Age of the Suspect *29* ; d.o.b. *02-13-64*

Highest Grade Completed in School *10th*

We want to question you about *Burglary of Ladelle Buggs' house and the death of Ladelle Buggs.*

Before we ask you any questions, we want you to understand your rights.

You have the rights to remain silent.

We inform you that anything you say can be used against you in court.

* *bolded, italicized items were handwritten on original document*

You have the right to talk to a lawyer for advice before you answer any questions and you may have the lawyer with you during questioning.

If you want a lawyer during questioning but cannot afford one, a lawyer will be provided for you at no cost to you prior to questioning.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time in order to get the advice of a lawyer or for any other reason you might have.

(s) *Chuck Tally*
(To be signed by the officer advising the accused of his rights)

DATE *01-26-94*

TIME *5:13 PM*

CONSENT TO QUESTIONING:

Do you understand your rights? YES *X* NO ____

Are you willing to answer questions at this time without a lawyer? YES *X* NO ___

Have any threats or promises been made to you or has pressure of any kind been applied to induce you to answer questions or to give up any of your rights? YES __ NO *X*

WITNESS *(s) Charles J. Buford*

WITNESS _____

SIGNED *(s) Pierre T. Jackson*

PLACE *Claiborne Parish Sheriff Dept.*

DATE *01-26-94*

TIME *5:14 PM*

(NOTE: For the suspect to intelligently give up his rights, he must freely and voluntarily answer YES to the first two questions and NO to the third question after having the advice of rights read to him and after the officer determines that the suspect understands his rights).

Remarks: _____

_____

_____

_____

CLAIBORNE PARISH SHERIFF'S DEPT.
613 East Main
Homer, Louisiana 71040

STATEMENT BY PIERRE T. JACKSON

"CT: Now, what you asked me, was I going to put you into another room.
PT: Yeah.
CT: You're in a cell block by yourself right now.
PJ: Yeah.
CT: And you said that you want to talk to me tonight, so I'll put you in a room where there's some more people. Right?
PJ: Yeah.
CT: When we get through here, you're not going back in that room that you were in. I'm going to put you in another cell block to where there some other people, okay?
PJ: That's all I want to know.
CT: Okay. Now then, being it's been some time lapse since I've talked to you a while ago. I'm going to ...
PJ: You ain't got to re-read that.
CT: No, I have to. You'll tell me it's not necessary on your part, but I have to re-read this to you. It's the same thing, but let me re-read it to you, okay. I have to do that.
Pierre T. Jackson, Route 2, box 101A, Bernice, Louisiana. Your age is 29. Your date of birth is February the 13, 1964. You completed the 10th grade. I want to talk to you about the burglary of Ladelle Buggs' house

and the death of Ladelle Buggs. Before I ask you an questions, I want you to understand your rights. You have the right to remain silent. We inform you that anything you say can be used against you in court. You have the right to talk to a lawyer for advice before answering any questions and you may have a lawyer during the questioning. If you want a lawyer during the questioning, but can not afford a lawyer, a lawyer will be provided to you at no cost prior to the questioning. If you decide to answer questions now without a lawyer present, you have the right to stop answering in order to get advice of a lawyer or for any other reason that you may have.

PJ: Now this part about a lawyer. How am I going to get a lawyer when I'm sitting up here talking to y'all?

CT: Okay, let me write this time down and I'll tell you. Okay, let me finish this then I'll answer your question. Do you understand these rights?

PJ: Uh-huh.

CT: Okay. Are you willing to answer questions now without a lawyer present?

PJ: Uh-huh.

CT: Okay. Have any threats, promises or pressure of any kind been implied to induce you to give up these rights?

PJ: Uh-uh.

CT: Okay. I would like for you, instead of shaking your head, say yes or no.

PJ: Yeah. Yes.

CT: Now, like I told you a while ago, we have our tape recorder and camera on, okay. Now, to answer your question about the lawyer is, that if you can not afford a lawyer, the courts will appoint you a lawyer. It will be free of charge. It won't cost you any money and we will see that that's done if that's what you need. If you don't have the money to hire a lawyer, the courts will appoint you a lawyer.

PJ: Okay.

CT: This is the rights form and if you'd like to review it and then sign your full name there ... Okay, you have read that, I mean, you have signed that and you do understand what I've read to you? Okay, I'd like you to say yes or no.

PJ: Yes. Yes, sir.

CT: Yes, sir. Okay, fine.

CB: One thing I want to stipulate there. The last part he read to you right here. When it says have any threats or promises been made to you or has pressure of any kind been implied induce you to answer questions or to give up any of your rights. You shook your head, nodded your head a minute ago.

PJ: I mean no.

CB: Meaning, I took, no, but when he asked you, I think you said yes,

yes. Now has any pressure of any kind been induced?

PJ: No. No.

CB: Okay.

CT: Okay, so the answer is no. All right, thank you. Okay, Pierre. We're going to start at the beginning just like we did earlier, but we're going to start at the very beginning now. All right, today's date is Wednesday, January 26, 1994 and we're at the Claiborne Parish Sheriff's Office. I am Deputy Sheriff Chuck Talley. This is Deputy Sheriff Charlie Buford. You met us today. Now, in talking to you I told you that we were doing an investigation on Mrs. Ladelle Buggs that lives up there in the area where you live about out there by Hebron Church Community in Claiborne Parish.

PJ: Yes, sir.

CT: ...What you had to do. And then she walked up in the woods where she was lying. And you told her to turn around and you shot her in the back of the head. Right?

PJ: That's correct.

CT: Okay.

PJ: If I say didn't do it, I'm lying. I'm trying. I'm being honest with y'all like y'all being honest...like y'all did me today.

CB: Okay.

CT: Pierre, you've been very honest with us.

PJ: See, I knew I'm in a ... By me talking on this thing, I know I'm in a bunch of trouble.

CT: Yes, sir.

PJ: I already know that. I'm in bookoodles of trouble...

CB: Yeah.

PJ: ...by sitting here talking to you. I already know I'm in trouble.

CB: That's right. That's right.

PJ: Y'all ain't got to tell me nothing about nothing. I know I'm in trouble.

CT: Okay.

PJ: I'm in deep trouble.

CT: Pierre, I tell you what now. We've gone through all of this, I think very thorough, and you've been very clear and very honest with us. And I think we've just about covered everything we need to. Do you think so, as far as I know.

CB: As far as I know, we have.

CT: Okay. Well, Pierre, this will be the end with this statement..

PJ: Uh-huh.

CT: ...at this time. My time is 5:47 p.m.